

REMARKS

This paper responds to the Office Action mailed on March 16, 2005, and the references cited therewith. Claims 1, 3, 9, 13, 20, 23, 28, 31 and 36 are amended and no claims are added or canceled. Claims 1-36 are still pending in this patent application.

Prior Use Information

The present claims recite a device and method and are believed to be fully supported by the original U.S. Provisional application 60/419,334 filed October 17, 2002. Applicants therefore wish to point out that, to the best of their knowledge, an embodiment of the claimed device and method was in use in Canada as of October 18, 2001 (Note that the claimed priority date for the subject application is October 17, 2002).

After reasonable inquiry, Applicants submit that, to the best of their knowledge:

1. The device and method according to the claimed invention, and vehicles having components made by using the claimed device and method, were not known or used by others in the United States prior to October 18, 2001; and
2. The device and method according to the claimed invention, and vehicles having components made by using the claimed device and method, were not in public use or on sale in the United States prior to October 18, 2001.

Examiner Interview Summary

Applicant wishes to thank Examiner Hess for his courtesies in discussing the Office Action with James E. Gastle (registration no. 41,566) by telephone on September 6, 2005. Mr. Gastle was given associate power of attorney in accordance with the Appointment of Associate Representative filed in this patent application on August 22, 2005. During the interview, Mr. Gastle and Examiner Hess discussed the claims of this application in light of principal reference U.S. Patent 1,330,639 to Leumann.

Mr. Gastle and Examiner Hess discussed Leumann's figures 1, 2, 4 and 5. Leumann's support arms are confined to a reciprocal motion governed by the rotation of the flywheel 40. In

addition, Leumann's arms 12, 14 do not make contact with the side edges of the blanks to provide a tamping effect.

As amended, claim 1 recites that the receiving portion is operable after the support means has been retracted or disabled to receive additional blanks beyond the predetermined number of blanks. Similar amendments have been made to claims 9, 20, 28 and 36. Applicants believe this feature not to be contemplated by Leumann.

Leumann teaches the use of a reciprocating motion in which the support members 10 are removed from beneath the blanks at the same time the platform 4 moves away from the guides 1. Given that the platform 4 is, in this position, no longer within the confines of guides 1, further deposition of blanks on the platform 4 is impractical, since the blanks are prone to falling off the platform, potentially causing risk of jamming and damage to the blanks.

Claim 3 is now independent over claims 1 and 2. It is further believed that claim 3 recites the device with a tamper unit in a manner which is not contemplated by Leumann for the reasons stated above. Similar amendments have also been made to claims 13, 23 and 31. Claim 34 has been amended to correct the antecedent error identified by the Examiner.

§112 Rejection of the Claims

Claims 34 and 35 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claim 34 has been amended to correct the insufficient antecedent basis. Claim 35 which depends upon claim 34 is now correct due to the correction made to claim 34.

§102 Rejection of the Claims

Claims 1-6, 9-15, 17-24, 26, 28-32, 34 and 36 were rejected under 35 U.S.C. § 102(b) for anticipation by Leumann (US 1,330,639). Applicant believes claims 1-6, 9-15, 17-24, 26, 28-32, 34 and 36 are now allowable over the Leumann patent based upon the addition of limitations such as the receiving portion is operable after the support means has been retracted or disabled to receive additional blanks beyond the predetermined number of blanks added to original independent claims 1, 9, 20, 28 and 36 and newly independent claims 3, 13, 23 and 31. Since the additional limitations are not found in the single reference to Leumann, the rejection under 35

U.S.C. § 102(b) now fails. Reconsideration of claims 1-6, 9-15, 17-24, 26, 28-32, 34 and 36 is respectfully solicited.

§103 Rejection of the Claims

Claims 7, 16, 23, 27, 33 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leumann (US 1,330,639). No second reference was combined with the Leumann patent to support these rejections. Instead, the Examiner relied upon Official Notice to provide elements missing in the Leumann patent to reject the claims. Applicant respectfully objects to the taking of Official Notice.

Applicant believes that claims 7, 16, 23, 27, 33 and 35 now include elements not found in the Leumann patent and not described in the Examiner's Official Notice. Since all of the limitations of claims 7, 16, 23, 27, 33 and 35 are not found in the combination of the Leumann patent and the Examiner's Official Notice, Applicant believes that the rejection of claims 7, 16, 23, 27, 33 and 35 is not valid. Applicant respectfully requests reconsideration of claims 7, 16, 23, 27, 33 and 35 and allowance of all claims.

Request for Further Interview

If further rejections of the claims is forthcoming, Applicant respectfully requests that prior to the next office action, the Examiner grant the Applicant's representative, Mr. James Gastle, the courtesy of a further telephone Interview. After the Examiner has had an opportunity to review this response, Applicant respectfully requests that the Examiner call Mr. James Gastle at telephone number 705-652-7059 to schedule such an Interview.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6904 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By his Representatives,

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Date Sep. 16, 2005

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16th day of September, 2005.

PATRICIA A. HULTMAN

Name



Signature